



THE ARIZONA REPUBLIC
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Teresa Tallarida, 21, pours herself coffee during breakfast at the Cloud Club at the JW Marriot Desert Ridge Resort in Scottsdale.

AZ Republic 30 July 2006 Biz Sect. Front Page

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Cox fights state's \$2 mil fine for role in deal with builder

By Ken Alltucker
THE ARIZONA REPUBLIC

Cox Communications wants state regulators to reject a recommended \$2 million fine for the company's role in a deal that effectively shut out a competitor from providing voice, video or data service at the Vistancia community in Peoria.

Cox representatives already have worked to unwind the Vistancia deal, settled a lawsuit with a small telephone company and worked diligently to provide state regulators requested information.

Now, they say the fine is overkill, unjustified and unfairly sin-

gles out Cox for a deal that a private developer concocted and the city of Peoria approved.

"We just think it's baseless," said Ivan Johnson, Cox's vice president of community relations and televideo.

Cox filed testimony last week challenging the Arizona Corporation Commission's proposed fine, which, if approved, would be the state agency's second-largest ever levied against a telecommunications company. A hearing on the proposed fine is scheduled Aug. 28.

At issue is a deal set up by developer Shea-Sunbelt and ap-

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Pointe South Mountain, upgrade facility

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company Properties
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o refurbish guest

rooms, build a new lobby, add a restaurant and expand the 6-acre water park.

It will take over the management contract from Destination Hotels & Resorts and retain all employees.

Grossman Company rescued the Arizona Biltmore Resort & Spa

from bankruptcy in 1992, spent \$40 million to restore the hotel's stature and sold it in 1999.

The company also was an original partner in Arizona Mills mall and once owned Biltmore Fashion

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Toscana's Grill, 16262 W. Clubhouse Drive, Goodyear. (623) 935-3138.

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Thursday

Arizona Department of Revenue Retail Workshop: 6 p.m. Glendale Public Library, 5959 W. Brown St., Glendale. (623) 930-3552.

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SCORE's Start Smart Business Planning: 9 a.m.-noon. Arizona Small Business Administration, 4130 E. Van Buren St., Phoenix. (602) 745-7250.

Walk-In Counseling With SCORE: 10 a.m.-2 p.m. Glendale Public Library, 5959 W. Brown St., Glendale. (602) 745-7250.

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Cox fights \$2 mil fine for role in builder deal

COX
Continued from D1

proved by Peoria that created a private easement leading to the 17,000-home Vistancia Community in Peoria. The developer controlled the easement and charged companies \$1 million to provide service to the new home development.

The developer signed a "preferred provider" deal with Cox to provide telephone, cable and high-speed Internet access to the community. The deal was structured so Cox would share some profits with the developer based on the percentage of Vistancia homeowners who signed up for Cox service.

Developers and communications companies, usually Cox or Qwest, routinely reach such preferred-provider deals that allow the company to display marketing materials in a builder's office. The Cox-Shea-Sunbelt deal was unusual because it included a private easement that allowed the developer to become the gatekeeper of service for the new-home community.

A small telephone company, Accipiter Communications, filed a complaint with the Corporation Commission and a Maricopa County Superior Court lawsuit saying the arrangement made it impossible for other phone companies to serve Vistancia.

The Department of Justice

"We didn't devise the easement. ... That was really something between the developer and the city of Peoria."

Ivan Johnson
Cox Communications official

also launched an antitrust probe, which has since been terminated, according to Cox.

Cox and developer Shea-Sunbelt paid Accipiter \$1 million to settle the lawsuit. Cox, which admitted no wrongdoing, also agreed to share equipment and allow Accipiter access to the community.

In June, the commission issued a report finding the Cox-Shea-Sunbelt arrangement was discriminatory and anti-competitive and violated federal and state laws promoting open competition for telecommunications services.

The commission recommended a \$2 million fine, or \$2.2 million less than the maximum, in part, due to Cox's cooperation and efforts to undo the deal.

"We didn't devise the easement. We were not an active participant in developing it," Johnson said. "That was really something between the developer and the city of Peoria."

Reach the reporter at (602) 444-8285.

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